

CASE SUMMARY

INFORMATION ON PROPOSED SETTLEMENT OF LITIGATION

CASE NAME	<u>LeBarron v. County of Los Angeles</u>
CASE NUMBER	MC016364
COURT	Los Angeles County Superior Court (Lancaster)
DATED FILED	April 18, 2005
COUNTY DEPARTMENT	Department of Public Works
PROPOSED SETTLEMENT AMOUNT	\$975,000
ATTORNEY FOR PLAINTIFF	Robert A. Parris, Esq. R. Rex Parris Law Firm (661) 949-2595
DEFENSE COUNSEL ATTORNEY	Allen L. Thomas, Esq. Thomas Law Firm (562) 425-3143
NATURE OF CASE	<p>This is a dangerous condition of public property lawsuit brought by David LeBarron for damages for the personal injuries he sustained in a bicycle accident which occurred on May 3, 2004. Donna LeBarron, wife of Mr. LeBarron, seeks damages for loss of consortium.</p> <p>The accident occurred on Crown Valley Road in unincorporated County territory located in the Antelope Valley. Mr. LeBarron was riding his bicycle on Crown Valley Road when he struck an asphalt berm surrounding a concrete catch basin on the west side of Crown Valley Road. He was thrown from his bicycle into the catch basin, striking his head and face. Mr. LeBarron, 39 years of age at the time, suffered serious head injuries, including a skull fracture, a severe concussion and frontal lobe (brain) trauma and hemorrhage in the</p>

accident. Plaintiffs claim that the roadway was in a dangerous condition and that the condition was a cause of the accident. Specifically, they allege that the catch basin was situated in an unsafe location on the roadway, that it intruded into the travel lane on Crown Valley Road, and that traffic controls and markings were needed to warn of the potential hazard.

This case was mediated twice on August 31, 2007 and again on October 16, 2007. The mediator has now proposed a settlement of all disputes in the total amount of \$975,000. Due to the risks and uncertainties of the litigation, the Department of Public Works, Carl Warren and Company, County Counsel, and County's defense counsel recommend acceptance of the mediator's proposal and a settlement in the amount of \$975,000.

PAID ATTORNEY FEES, TO DATE	\$63,766
-----------------------------	----------

PAID COSTS, TO DATE	\$39,520
---------------------	----------

Summary Corrective Action Plan

County of Los Angeles Department of Public Works



The intent of this form is to assist departments in writing a corrective action plan summary for attachment to the settlement documents developed for the Board of Supervisors and/or the County of Los Angeles Claims Board. The summary should be a specific overview of the claims/lawsuits' identified root causes and corrective actions (status, time frame, and responsible party). This summary does not replace the Corrective Action Plan form. If there is a question related to confidentiality, please consult County Counsel.

Date of incident/event:	May 3, 2004
Briefly provide a description of the incident/event:	Mr. LeBarron was riding a mountain bicycle southbound on Crown Valley Road at approximately 35 mph on a straight downhill grade when he struck the raised curb that was surrounding the storm drain inlet. He was propelled off the bicycle and impacted the asphalt roadway and was rendered unconscious.

1. Briefly describe the root cause of the claim/lawsuit:


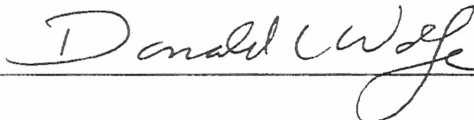
- 1) Insufficient visual notice of the inlet structure.
- 2) Rural non-standard storm drain inlet structure.
- 3) Road was widened with additional pavement in place of the dirt shoulder.
- 4) Missing reflective marker at the base of curb.
- 5) Oversight to include reflective markers in the inventory system for review and maintenance.

2. Briefly describe recommended corrective actions:
(Include each corrective action, due date, responsible party, and any disciplinary actions if appropriate)

- 1) Enhancements to the existing signing and striping including a solid white edge line, painting the asphalt curb white and installation of signs. Completed October 30, 2006
- 2) Initiate and complete by March 31, 2008 a Project Design Concept (PDC) Report to study the replacement of the existing inlet structure with a series of curb opening catch basins.
- 3) Direct staff to only construct or modify pavement upon engineering review. Complete by March 1, 2008.
- 4) Revised procedures to require all new traffic safety related reflective markers to be included in the inventory system for future review and maintenance. Complete by March 1, 2008
- 5) Complete a list of existing locations with reflective markers for further review and inclusion into the inventory system as necessary. Complete by December 31, 2008.

3. State if the corrective actions are applicable to only your department or other County departments:
(If unsure, please contact the Chief Executive Office Risk Management Branch for assistance)

- ☐ Potentially has County-wide implications.
- ☐ Potentially has implications to other departments (i.e., all human services, all safety departments, or one or more other departments).
- ☒ Does not appear to have County-wide or other department implications.

Signature: (Risk Management Coordinator) 	Date: 1/28/08
Signature: (Director) 	Date: 1/28/08

**DEPARTMENT OF PUBLIC WORKS
CORRECTIVE ACTION PLAN**

LAWSUIT OF: David and Donna LeBarron

INCIDENT DATE: May 3, 2004

INCIDENT LOCATION: Crown Valley Road, 0.1 miles north of Sierra Highway. Acton area of unincorporated Antelope Valley

RISK ISSUE:

Alleged Dangerous Condition: By statute dangerous condition is defined as a condition of property that creates a substantial risk of injury when used with due care.

The Le Barrons contend in their lawsuit that the roadway is in a dangerous condition due to the actions of Public Works; by its failure to provide adequate visual safeguards of a catch basin inlet in the roadway following the improvement of the dirt shoulder. In trial the County may be found liable for the dangerous condition of its property due to the design and maintenance.

INVESTIGATIVE REVIEW:

Crown Valley Road is a two-lane north-south rural road with one travel lane in each direction separated by a double yellow line with a shoulder. It is a straight road traveling uphill northbound from Sierra Highway. There is an inlet structure adjacent and along the southbound travel lane approximately 300 feet north of Sierra Highway. The inlet's purpose is to collect downhill surface flow on Crown Valley Road.

The drain inlet was constructed within the maintained, public road right of way in conjunction with a private development south of the inlet. The plans called for raised curb around the basin and four reflective markers in front of the inlet. The reflective markers were not placed into Public Works inventory system for periodic inspection and maintenance.

To prevent further erosion on the west side of rural Crown Valley Road, the road was widened several feet, the dirt shoulder was replaced on the west side with an inverted asphalt shoulder to channelize storm flows. In 2000, this section of roadway was reviewed and in 2001 a resurfacing project was completed.

The incident occurred in the early morning of May 3, 2004 at approximately 5:30AM prior to sunrise (6:02AM). David Le Barron was riding a mountain bicycle southbound on Crown Valley Road with his regular riding companion. While traveling approximately 35 mph on this straight, downhill grade, he struck the raised curb that was surrounding the storm drain inlet. He was propelled off the bicycle and impacted the asphalt roadway, his helmet was dislodged, he rolled several times, sustained head trauma and

LeBARRON CORRECTIVE ACTION PLAN

Page 2

was rendered unconscious. Mr. LeBarron was transported and hospitalized for several months. He sustained permanent head injuries.

POLICY ISSUES:

Operational Services Division has a practice of repainting all markings and striping every 18-months. While traffic safety related signs are reviewed and maintained every three years, reflective markers of the type specified to be used in front of the inlet have not been inventoried, and consequently have not been reviewed. Reflective marker repairs to date have been performed by Road Maintenance Division.

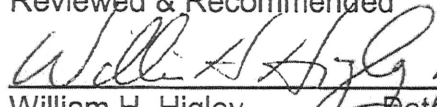
Current practice allows pavement modifications, including additional pavement as necessary for various reasons by Road Maintenance Division staff without formal review.

CORRECTIVE ACTION:

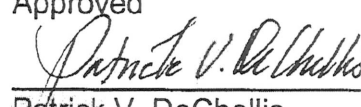
1. Public Works reviewed the site after the accident and determined that enhancements to the existing signing and striping layout would be appropriate in the immediate vicinity of the inlet structure. Consequently, a striping and signing plan was prepared which included the installation of a solid white edge line, painting the asphalt berm white and installation of a yellow reflective object marker sign and single obstruction arrow sign. The signing and striping installation was completed on October 30, 2006.
2. Initiate and complete by March 31, 2008 a Project Design Concept (PDC) Report by Design Division to study the replacement of the existing inlet structure with a series of catch basins along Crown Valley Road.
3. By March 1, 2008 Road Maintenance Division by memorandum will direct staff to only construct or modify pavement upon engineering review.
4. By March 1, 2008 Traffic & Lighting Division by memorandum will revise procedures to require all new traffic safety related reflective markers to be included in the inventory system for periodic review and maintenance.
5. By December 31, 2008 Road Maintenance Division will complete a list of existing locations with reflective markers for further review by Traffic and Lighting Division. Traffic and Lighting Division will then review these locations to determine if the reflective markers are necessary and if so prepare an engineering plan for the markers. Operational Services Division will carry out the plan and include the markers into the facilities inventory system for future review and maintenance. If the marker locations are deemed unnecessary they will be removed by Road Maintenance Division.

LeBARRON CORRECTIVE ACTION PLAN
Page 3

Reviewed & Recommended


William H. Higley Date
Deputy Director

Approved

 1-29-2008
Patrick V. DeChellis Date
Deputy Director